

TOBACCO CONTROL BOARD MEETING MINUTES

OCTOBER 16, 2003

The Tobacco Control Board met on October 16, 2003, for its monthly meeting in the Main Street Mall building, located at 101 E. Capitol Avenue, Little Rock, Arkansas, beginning at 9:00 a.m. in Conference Room "C". There were 5 - board members present, and 3 - board members absent - Dr. Cliff Johnson, Mr. Toby Longino, and Mr. Gene McKissic.

The Chairman opened the meeting with a "Welcome" to those attending. He introduced Mr. Mark Carter, a new board member replacing Mr. Scott Wallace. Next he introduced Mr. Charlie Moulton, serving as Hearing Officer, and Ms. Rene Almond, as Court Reporter, who was accompanied by Ms. Amanda Poe, an Intern Court Reporter.

The Chairman then turned the meeting over to Mr. Moulton, who continued the Disciplinary Hearing segment of the meeting. The following cases were called before the Board:

Mr. Roland Darrow II, attorney for the Board representing the Sales to Minors cases coming before the Board, presented the Default Judgement List as of 9/18/2003.

After review by the members, a motion was made to access the recommended amount shown on the Default List with the exception of Blackard Oil and access the maximum penalty. The motion was approved with 5 - Yes votes and 3 - Members absent.

Mr. Darrow then presented a Default Judgement List as of 10/16/2003 to the Board. A motion was made and approved to access a \$200.00 fine on all Sales to Minors cases with Default Judgements and all other cases on the list to be fined, as shown, with 5 - Yes votes and 3 - Members absent.

Mr. Darrow continued with the following:

Case 2004-492	Kelly's Kwik Mart – Paragould
Case 2004-500	Kelly's Subway/Pizza Pro - Piggot
Permittee: Mr. Kelly Jones	

VIOLATION:	§26-57-226	Selling without a permit – 2 nd \$500.00 fine and confiscation of product
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The business was represented by Mr. Randy Grice.

After hearing all the testimony presented, a motion was made to find Wallcot Enterprises, Inc. dba Kelly's Kwik Mart and Kelly's Subway/Pizza Pro in violation of §26-57-226 and assess \$1,000.00 fine per store location, a 15-day suspension of permit at each store location, and continue confiscation of the product to give the Department of Finance and Administration time to work out what's in the best interest for the DF&A. The motion was approved with 5 – Yes votes and 3 – Members absent.

Case #2004-173	BP Amoco Marion Marion, Arkansas
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Permittee: Mr. Salamat Smeht

VIOLATION:	§26-57-248	Possession of Untaxed Products \$4,650.00 fine with \$2,325.00 suspended leaving \$2,325.00 to be paid and destruction of confiscated product.
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A request was made to move this case to the November 20, 2003, board meeting. A motion was made and approved per that request with 5 – Yes votes and 3 – Members absent.

Cases #:	2003-588	Tobacco Super Stores – Little Rock
	2003-608	Tobacco Super Stores – Conway
	2003-552	Tobacco Super Stores – Lonoke
	2003-609	Tobacco Super Stores – Benton

Permittee: David Cohn

VIOLATIONS: §5-27-227(a)(1) Sales to Minors, 2nd Offense
\$250.00 fine per location and 1-day suspension
of permit.

The Tobacco Super Store locations listed above were represented by
Mr. Larry Cobb, Retail Operation Supervisor.

Mr. Cobb admitted the Sales to Minors took place and asked for leniency
by the Board after his testimony.

After consideration by the Board a motion was made and approved to
find the Tobacco Super Stores in violation of §5-27-227(a)(1), assess a
\$200.00 fine and 1-day suspension of permit per store location for
second offenses with 5- Yes votes and 3 – Members absent.

Case # 2004-0080	Keystone Liquor North Little Rock
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Permittee: Grace Nwanne

VIOLATION: §26-57-226 Selling without a permit, 1st
Offense, \$250.00 fine

Keystone Liquor was represented by Andrew and Grace Nwanne.

After hearing the testimony a motion was made and approved to find
Keystone Liquor in violation of §26-57-226 and move the fine be reduced
to a warning with 5 – Yes votes and 3 – Members absent.

The Disciplinary Hearing segment of the meeting was concluded. Mr. Moulton turned the meeting back over to the Chairman.

Mr. Milburn continued the meeting by asking for approval of the August 21, 2003, and September 18, 2003, board meeting minutes. A motion was made and approved to that effect with 5 – Yes votes and 3 – Members absent.

Mr. Charlie Davis, the Director, continued by presenting the “New Retail Permit Report” to the Board. He asked for a blanket approval of the “New Retail Permit Applications issued from August, 21, 2003 through October 15, 2003”. A motion was made and approved to approve the permits as listed with 5– Yes votes and 3 – Members absent.

The Director then presented Wholesale Permit Applications for the following:

Table Rock Beverage Co., LLC Fort Smith, Arkansas
James A. Glidewell, Jr.

- 1 – Wholesale Cigarette Permit
- 1 – Wholesale Tobacco Permit
- 2 – Wholesale Sales Representative

The application was complete and the Director recommended it for approval. A motion was made to approve the application for Table Rock Beverage Co., LLC. The motion was approved with 5 – Yes votes and 3 – Members absent.

Associated Wholesale Grocers, Inc. Southaven, MS

- 1 – Wholesale Cigarette Permit
- 1 – Wholesale Tobacco Permit

Upon approval of the application, Sales Representative Permits will be applied for as salesmen are hired to do business in Arkansas.

The 30-day advertising requirement expired the day after the Board meeting on Friday, October 17th. The Board agreed to wave the last day of the 30-day period, since the company has 2 other locations selling into Arkansas, has been doing business in Arkansas since September 14, 1971, and is in good standing with the Secretary of State's Office.

The application was complete and Mr. Davis recommended it for approval with October 17, 2003, being waved by the Board.

A motion was made to approve the wholesale permit application for Associated Wholesale Grocers, Inc., in Southaven, Ms, per the Director's recommendation with 5 – Yes votes and 3 – Members absent.

Next Mr. Davis reviewed and asked for a blanket approval of the "Notice of Hearing and Offers of Settlement accepted by the permittee from August 21, 2003, through October 15, 2003". A motion was made and approved to accept this report and the recommendation of the Director with 5 – Yes votes and 3 - Members absent.

The Director then "Addressed the Board". He reviewed the September 2003 and October 2003 Complaints Reports.

He told the Board Phil Jones, an Enforcement Agent, and Roland Darrow, the Sales to Minors Attorney, attended the Federation of Tax Administrators Tobacco Meeting held this year in Oklahoma City, Oklahoma, from September 7th through 9th. He explained the cigarette and tobacco issues the conference covers.

Mr. Davis called on Greg Sled, the Sales to Minors Enforcement Agent Supervisor, to explain the activity of the enforcement agents in the field.

The Director explained new wholesale pricing and its effects on businesses around the state.

He let the Board know he would be on vacation from November 3rd through 14th.

He announced Mandy Miller in the agency office is expecting a baby in late April, 2004.

The Chairman called on Arnie Jochums, Board Attorney, to bring the Board up to date on any court activity.

Next on the agenda was "Petition for Rulemaking submitted by McLane Company". The Board recognized the Petition for Rulemaking and a motion was made and approved to send the Rulemaking Petition to the Rules and Regulations Committee for review with 5 – Yes votes and 3 – Members absent.

The Chairman then opened the meeting for "Board Member Discussion" followed by "Comments from the Audience".

Announcements included the next meeting date of November 20, 2003.

All business of the Board had been conducted and the meeting was adjourned.

Minutes prepared by _____
Janis L. Campbell

October 22, 2003